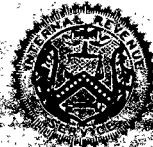


# INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE  
ALCOHOL AND TOBACCO TAX DIVISION



WASHINGTON 25, D. C.

Industry Circular No. 59-38

June 2, 1959

## PROPOSED AMENDMENT OF REGULATIONS IN 26 CFR PARTS 270 AND 275

Manufacturers and importers of tobacco  
products and proprietors of customs  
bonded cigar manufacturing  
warehouses, class 6:

**Purpose.** The purpose of this industry circular is to acquaint you with the provisions of a notice of proposed rulemaking, published in the Federal Register of May 27, 1959, which would amend the regulations in Parts 270 and 275 of Title 26 of the Code of Federal Regulations.

**Background.** The proposed amendment of the regulations would implement the Internal Revenue Code of 1954, as amended by the Excise Tax Technical Changes Act of 1958, and would make certain editorial, clarifying, and conforming changes in the regulations.

**Proposed changes.** Changes of a substantive nature are proposed in the following sections:

Section 270.60, relating to the cigar tax rates, prescribes that cigars not exempt from tax which are removed but not intended for sale (such as those removed for distribution to consumers or prospective customers for sampling, testing, or advertising purposes) shall be taxed at the same rate as similar cigars removed for sale.

Section 270.61, relating to the classification of large cigars, makes clear that, in determining the ordinary retail price of such cigars for Federal tax purposes, a State, city, or municipal tax levied on the retail sales price of large cigars is not to be included.

New sections 270.63a and 275.50a entitled "Persons liable for tax" provide that when cigars, cigarettes, or manufactured tobacco are transferred, without payment of tax, to another manufacturer of such products or to an export warehouse proprietor, the transferee shall become liable for the tax upon receipt of such products and the transferor shall be relieved of his liability for the tax and, similarly, provide that when such products are released in bond from customs custody, the transferee shall become liable for the tax upon release from customs custody and the importer shall be relieved of liability.

Sections 270.90 and 275.80, relating to the issuance of the permit, require a manufacturer to retain his permit within the factory readily available for inspection, but no longer require that the permit be posted.

Sections 270.122 and 275.112, relating to the amount of the bond, require that a manufacturer's bond, when in less than the maximum amount, shall be sufficient to cover the tax liability on the tobacco products manufactured in his factory, and received, under bond, by transfer from another factory and by release from customs custody.

Sections 270.144 and 275.134, relating to packages, no longer exempt from the packaging requirements, cigars, cigarettes, and manufactured tobacco removed for export. Amendment of subsection (c) of such sections and of sections 270.190 and 275.180 makes the restrictions with respect to lottery features applicable to all removals.

Sections 270.164, 270.197, 275.153, and 275.186, relating to claims for refund of tax on cigars, cigarettes, and manufactured tobacco, withdrawn from the market or lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer or importer, require such claims to be filed with the assistant regional commissioner for the region in which the tax was paid or, where the tax was paid in more than one region, with the assistant regional commissioner for any one of the regions in which the tax was paid, within 6 months after the date of the withdrawal from the market, loss, or destruction of the tobacco products.

Sections 270.165, 270.198, 275.154, and 275.187 prescribe that stamps which have been spoiled, destroyed, rendered useless or unfit for the purpose intended, or for which the manufacturer has no use may be redeemed, if claim is filed with the assistant regional commissioner for the region in which the stamps were purchased within three years after their purchase from the Government.

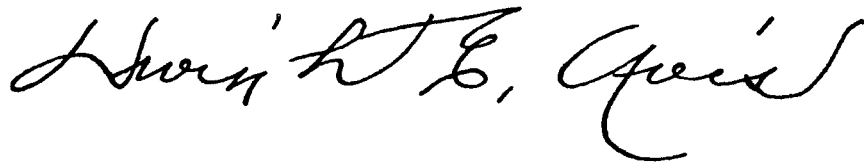
Sections 270.210, 270.213, 275.200, and 275.202 set forth the restrictions relating to the purchase, receipt, possession, or sale of cigars, cigarettes, and manufactured tobacco, after removal, and the restrictions relating to marks, labels, notices, stamps, and packages.

**Definitions.** The Excise Tax Technical Changes Act of 1958 amended several definitions contained in Chapter 52 of the Internal Revenue Code which are reflected in the proposed amendment of the regulations. The changes in the definitions of "Dealer in tobacco materials," "Manufacturer of tobacco," and "Manufactured tobacco" are intended to clarify and achieve a more complete and realistic meaning of the terms. The changes in the definitions of "Manufacturer of cigars and cigarettes" and "Importer" are intended to continue the long-standing construction that a proprietor of a customs bonded manufacturing warehouse, which warehouse is entirely under customs jurisdiction and supervision, shall not be regarded as a domestic manufacturer of cigars and cigarettes for internal revenue purposes.

Refund of tax paid in error. The proposed Treasury decision has eliminated the provisions relating to claims for refund of taxes paid in error, consistent with the amendment of the Internal Revenue Code of 1954. Regulations with respect to the filing of such claims are contained in Part 301 of Title 26 of the Code of Federal Regulations.

Comments. The notice of proposed rulemaking provides that, prior to adoption, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D. C., within 30 days from the date of publication in the Federal Register.

Inquiries. Inquiries regarding this circular should refer to its number and be addressed to the office of your assistant regional commissioner (alcohol and tobacco tax).

A handwritten signature in cursive script, reading "Dwight E. Avis".

Dwight E. Avis  
Director, Alcohol and Tobacco Tax Division